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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,753	03/01/2002	Ravi Kumar	ARVI-001	8757
7590 01/04/2005 William L. Botjer Po Box 478 Center Moriches, NY 11934			EXAMINER HO, UYEN T	
			ART UNIT 3731	PAPER NUMBER

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/086,753	KUMAR, RAVI	
	Examiner	Art Unit	
	(Jackie) Tan-Uyen T. Ho	3731	

-- *Th MAILING DATE of this communication appears on th cover sheet with the correspondence address --*  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-18 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-18 and 20-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/14/04</u>  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 7-11, 14 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Sepetka et al. (6,746,468). Sepetka et al. disclose a plug having a tapered outer surface, a large diameter section, and an insertion device (see figs. 5, 21-23). Note: The introductory statement of intended use and all other functional statements have been carefully considered but are deemed not to impose any structural limitations on the claims distinguishable over the Sepetka's device which is capable of being used as claimed if one desires to do so.

3. Claims 1,6-8,13, 14, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Konya et al. (6,146,396). Konya et al. disclose a plug (16 or 30) and an inserted device as claimed (figs. 8-10). Note: The introductory statement of intended use and all other functional statements have been carefully considered but are deemed not to impose any structural limitations on the claims distinguishable over the Konya et al.'s device which is capable of being used as claimed if one desires to do so.

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4. Claims 1-4, 7,8, 10, 11, 14-17, 20-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Liotta et al. (4,710,192). Liotta et al. disclose a plug (fig. 2A-C) and an insertion device (fig. 3).

5. Claims 1-3, 5 7, 10, 12 14-18, 20-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Makower et al. (6,638,293). Makower et al. disclose a plug (Fig. 3A, 4 or 6, 7-9) and insertion device (fig. 1), pilot hole (32c or 34c), the support wires/spokes being made from tungsten (col. 8), and the cap being made from silicon (col. 8).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Makower et al. '293. In regarding to claim 5 and 12, although, Makower et al. do not disclose the plug being make from silicon, it is well known in the art to make the occlusive device from silicon material. Therefore, it would have been obvious matter of design choice to use silicon material for the polymer cap (28a, 32a, 34a) of Makower et al.'s plug. Doing so would amount to mere substitution of one material for another within the same art and it appears that the plug would perform equally well as its being made from other polymer materials.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to (Jackie) Tan-Uyen T. Ho whose telephone number is 571-272-4696. The examiner can normally be reached on MULTIFLEX Mon. to Sat..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ANHTUAN NGUYEN can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



(Jackie) Tan-Uyen T. Ho  
Patent Examiner  
Art Unit 3731

December 27, 2004